

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

VIRIDIS NORTH, LLC,<sup>1</sup>  
a Michigan limited liability company,  
  
Plaintiff,

v

JULIE KLUYTMAN, an individual,  
DESMOND MITCHELL, an individual,  
ALLYSON CHIRIO, an individual, and  
CLAIRE PATTERSON, an individual,  
  
Defendants.

No. 1:22-cv-283

HON. PAUL MALONEY

MAG. JUDGE PHILLIP J. GREEN

**DEFENDANTS' MOTION  
FOR JUDGMENT ON  
THE PLEADINGS**

**ORAL ARGUMENT  
REQUESTED**

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<sup>1</sup> The Court dismissed Viridis Laboratories, LLC as a party to this case in its October 27, 2022 Opinion and Order Granting in Part Motion to Dismiss.

**DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS**

**ORAL ARGUMENT REQUESTED**

Defendants Julie Kluytman, Desmond Mitchell, Allyson Chirio, and Claire Patterson, by counsel, move this Court to dismiss Plaintiff's complaint under Federal Rule of Civil Procedure 12(c), and for that motion state:

1. On February 18, 2022, Viridis Laboratories, LLC and Viridis North, LLC filed a complaint alleging that Defendants, four current and former Michigan Cannabis Regulatory Agency (CRA)<sup>2</sup> employees, violated their due process and equal protection rights under the United States Constitution. (PageID.7-46.)

2. On October 27, 2022, this Court issued an opinion and order granting in part Defendants' motion to dismiss; the Court dismissed all claims asserted in the complaint except for Plaintiff Viridis North's substantive due process claim brought under 42 U.S.C. § 1983. (PageID.910.) The Court denied Defendants' motion for reconsideration on November 29, 2022. (PageID.997-1000.)

3. On November 10, 2022, Defendants filed their answer to the complaint. (PageID.930-991.) Defendants' answer included the affirmative defenses of failure to state a claim upon which relief can be granted and qualified immunity. (PageID.991.)

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<sup>2</sup> The Marijuana Regulatory Agency was renamed the Cannabis Regulatory Agency under Executive Reorganization Order No. 2022-1, effective April 13, 2022. MCL 333.27002(1)(a).

4. Plaintiff's complaint should be dismissed because, even taking Plaintiff's factual allegations as true, Plaintiff has not stated a federal substantive due process claim upon which this Court can grant relief.

5. Plaintiff's complaint should be dismissed because qualified immunity bars Plaintiff's federal substantive due process claim in this Court.

6. In accordance with W.D. Mich. LCivR 7.1(d), counsel for Defendants sought Plaintiff's concurrence in the relief requested via email on December 19, 2022. Plaintiff failed to concur in the relief requested. Thus, Defendants ascertain that Plaintiff will oppose the motion.

WHEREFORE, for the reasons stated above and discussed more fully in the accompanying brief, Defendants respectfully request that this Honorable Court grant this motion and dismiss Plaintiff's complaint in its entirety under Rule 12(c).

Respectfully submitted,

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Dated: December 20, 2022

## CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2022, I electronically filed the above document with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

s/ Adam M. Leyton  
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Dated: December 20, 2022

LF: Viridis Laboratories et al v Kluytman (USDC-WD) / 2022-0342761-B / Motion for Judgment on the Pleadings - 2022-12-20